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4 **BEFORE THE SUPREME COURT OF**
5 **THE STATE OF ARIZONA**

6 In the Matter of

7 PETITION TO AMEND RULE 38(d)
8 OF THE RULES OF THE SUPREME
9 COURT OF ARIZONA

Supreme Court No. R-08-0013

**Comments of the State Bar of
Arizona in Opposition to Petition
No. R-08-0013 to Amend
Rule 38(d), Arizona Rules of
the Supreme Court**

10 The State Bar of Arizona, for the reasons set forth below, does not believe
11 this amendment is a necessary change at this time and, as such, opposes the
12 proposed rule change.

13 First, although the stated purpose for the petition appears well
14 intentioned, the State Bar is concerned that such legal services will be provided
15 outside of the law school environment. Under the current rule, the training and
16 oversight is conducted by a clinical law professor or member of the State Bar
17 certified to be a supervisor in the clinical law program that has been approved by
18 the dean and faculty of the college of law for the university. This supervision
19 adds a layer of protection, ensuring that the law professor or law student who is
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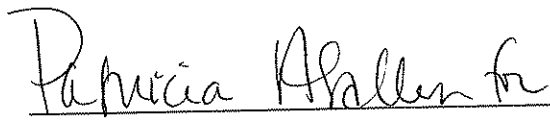
1 not admitted to the State Bar acts competently and ethically. It is unclear if the
2 proposal would necessarily include those safeguards, as the proposed safeguards
3 in Rule 38(d)(8) differ from the Rule 38(d)(5) safeguards.

4 In addition, the proposal requires approval of a Bar applicant's services to
5 be performed by the Executive Director of the State Bar of Arizona. The
6 Executive Director currently has no such jurisdiction, nor is the State Bar's
7 Executive Director or the organization currently equipped to administer and
8 supervise such a process.

9 Conclusion

10 The State Bar of Arizona for the above reasons opposes the Petition.
11 Despite this initial opposition, it should be stated that a few members of the
12 State Bar of Arizona Board of Governors have expressed an interest in exploring
13 such a process and are committed to examining the issues further. For the time
14 being, however, and for the foregoing reasons, the State Bar opposes the
15 proposed rule change.

16 **RESPECTFULLY SUBMITTED** this 15th day of May 2009.

17 
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1 Electronic copy filed with the
2 Clerk of the Supreme Court of Arizona
this 15th day of May, 2009.

3 by: Kathleen A. Lemley
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